

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Baxter Healthcare Corporation, et al.,

No. C 07-1359 PJH (JL)

Plaintiffs,

v.

**ORDER DENYING WITHOUT
PREJUDICE MOTION TO COMPEL
(Docket # 219)**

Fresenius Medical Care Holding, Inc.,

Defendants.

The Court received the parties' Joint Statement Regarding Baxter's Motion to Compel Defendants to Properly Supplement Their Interrogatory Responses.

Baxter contends that "By December 1, Defendants had not supplemented their responses to Interrogatories 6 and 7 for roughly eight months." The parties met and conferred, for the last time on December 9, the last day before the deadline to file a motion to compel, pursuant to Civil Local Rule 26-2, regarding Baxter's concern that although Fresenius had supplemented its response to Interrogatories 6 and 7 by stating that the Liberty was distributed to "dialysis clinics in the United States," without identifying the clinics. Baxter argues that Fresenius' response to Interrogatory 13 is similarly deficient, in not providing adequate profit, forecast and sales data. Baxter contends that it cannot rely on Fresenius' promises. Fresenius responds that it promised to provide the information, it will provide the information, "exactly the same information sought by Plaintiffs' motion -


1 notwithstanding Fresenius' objections to the relevance and appropriateness of Plaintiffs'
2 requests. Fresenius asks the Court to deny the motion as moot.

3 **Conclusion and Order**

4 The motion is denied without prejudice. The parties shall within ten days of the entry
5 of this order submit a stipulation and proposed order memorializing their agreement, for the
6 Court's signature.

7 IT IS SO ORDERED.

8 DATED: December 12, 2008

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12 JAMES LARSON
13 Chief Magistrate Judge

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